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Held at Headquarters, New York,
on Thursday, 12 December 1991, at 3 p.m.

President: Mr. SHIHABI (Saudi Arabia)

later: Mr. OUDOVENKO (Ukraine)
(Vice-President)

- Law of the sea

(a) Reports of the Secretary-General

(b) Draft resolution

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The meeting was called to order at 3.05 p.m.

AGENDA ITEM 36 (continued)

LAW OF THE SEA

(a) REPORTS OF THE SECRETARY-GENERAL (A/46/722, A/46/724)

(b) DRAFT RESOLUTION (A/46/L.44)

The PRESIDENT (interpretation from Arabic): In connection with draft resolution A/46/L.44, I should like to draw the attention of members to a correction to be made in operative paragraph 5 of the English version: the last words of the paragraph, which read: "for the benefit for mankind as a whole", should read: "for the benefit of mankind as a whole".

Mr. De MARCHANT ET d'ANSEMBOURG (Netherlands): I have the honour of speaking on behalf of the European Community and its twelve member States.

The European Community and its member States attribute great importance to the law of the sea and to the creation of conditions that would ensure that the numerous and ever-expanding uses of the seas will be regulated by a universally acceptable international instrument. In connection with this clearly established point of departure, I should like to reiterate the statement on the law of the sea that was annexed to the speech made to the General Assembly by Mr. Hans van den Broek, Minister of Foreign Affairs of the Netherlands, on behalf of the European Community and the Twelve:

"The Community and its member States remain convinced that the 1981 United Nations Convention on the Law of the Sea is of great importance for the upholding of the international legal order on the seas and the oceans. It is hoped that the outstanding problems, related to a legal regime for deep-seabed mining, will be solved in order to make the Convention universally acceptable. In addition to the valuable work undertaken within the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, the important informal consultations initiated by the Secretary-General of the United Nations on these problems may lead to solving the remaining issues and thus contribute to the desired universal acceptability of the United Nations Convention on the Law of the Sea. The Twelve look forward to the continuation of these consultations so that the outstanding issues can be solved satisfactorily before the entry into force of the Convention."

(Mr. De Marchant et d'Ansembourg, Netherlands)

Allow me to highlight in more specific terms some of the issues and developments to which general reference is made in that statement.

The Preparatory Commission, under the skilful leadership of Ambassador Jose Luis Jesus of Cape Verde, to whom the Twelve wish to pay a tribute, remains the official principal forum for discussion of issues related to the 1982 Convention on the Law of the Sea. As its name implies, it is primarily responsible for preparation of the necessary infrastructure for an effective International Seabed Authority and an International Tribunal for the Law of the Sea. The Twelve are therefore of the opinion that other initiatives, outside the framework of the Preparatory Commission, aimed at solving certain problems, or at improving certain provisions in part XI of the Convention, should be regarded as complementary to the work of the Commission and should be welcomed by it.

I should like to share with the Assembly some thoughts about certain developments within the Preparatory Commission during its ninth session.

The registration of two additional pioneer investors in the course of that session is proof of a continuing interest in future deep-seabed mining. During the spring meeting in Kingston the People's Republic of China was registered, and during the summer meeting in New York Interoceanmetals Joint Organization - a consortium consisting of Bulgaria, Cuba, Poland, the Soviet Union and the Czech and Slovak Federal Republic - was welcomed to the ranks of those demonstrating a keen interest in future deep-seabed-mining activities. The European Community and its member States are convinced that during the spring meeting of the Preparatory Commission's tenth session agreement will be reached on the subsequent obligations of the respective pioneer investors.

(Mr. De Marchant et d'Ansembourg, Netherlands)

So far as the working methods of the Preparatory Commission are concerned, the Twelve believe that, in particular with a view to streamlining and rationalizing the work of the Commission, an important decision has been taken. We welcome the consensus on shortening the future sessions of the Commission - effective from the spring meeting of the tenth session, which was held in Kingston.*

An interesting and highly welcome development during the ninth session of the Preparatory Commission was the outcome of the discussion that took place in Special Commission 2, dealing with the Enterprise. The Twelve welcome the general agreement that the Enterprise should start its operation in the form of a joint venture.

During the ninth session of the Preparatory Commission there was substantive discussion of the administrative arrangements, structure and financial implications of the International Seabed Authority. The discussion revolved around two possible administrative structures - the self-administering model and the United Nations-linked model. It should be recalled that the Twelve are convinced that the principles of efficiency and cost-effectiveness should govern any decision on the subject. The Authority should therefore reflect the current state of affairs - the actual commencement of seabed mining is a matter for the distant future. Consequently, in the interim period the United Nations-linked model is

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* Mr. Oudovenko (Ukraine), Vice-President, took the Chair.

(Mr. De Marchant et d'Ansembourg, Netherlands)

preferable. So long as actual seabed mining remains only a possibility for the distant future an independent and self-administering authority will not be justifiable. The Twelve hope that the principles of efficiency and cost-effectiveness will continue to guide those taking part in the deliberations on this and other subjects during the forthcoming meetings of the Preparatory Commission.

The 1982 United Nations Convention on the Law of the Sea is in a crucial phase. On one hand, constructive discussions to facilitate universal acceptability are in progress - the aim being the removal of the difficulties that prevent certain States from ratifying or acceding to the Convention. On the other hand, an increasing number of States have ratified the Convention - bringing closer the attainment of the 60 ratifications necessary for its entry into force. Finally, the Preparatory Commission is also approaching the end of its work.

As has been stated frequently, the European Community and its member States remain convinced of the utmost importance of a universally acceptable regime to regulate the various uses of the seas. We are convinced that, in this respect, the 1982 United Nations Convention on the Law of the Sea is the most appropriate instrument. However, if the desired universality is to be achieved the outstanding issues - issues that relate to the legal regime for deep-seabed mining - will have to be resolved. The Twelve consider it important that solutions be found before the Convention enters into force, and they urge all States to work to this end.

(Mr. De Marchant et d'Ansembourg, Netherlands)

As was stated by the representative of Italy, when he spoke on behalf of the European Community and its member States during the forty-fifth session of the General Assembly, the reasons for the fact that the part of the Convention that relates to deep-seabed mining makes it difficult for a considerable number of States to become parties to the Convention "are not simply political in nature." The representative of Italy continued:

> "They do not depend only on different conceptions as regards co-operation in the exploitation of resources beyond the limits of national jurisdiction. It is now clear that they depend too on the fact that many circumstances have changed since the 1970s and the beginning of the 1980s, when part XI of the Law of the Sea Convention was conceived, negotiated and adopted." (A/45/PV.64, p. 57)

With a view to achieving universal acceptance of the United Nations Convention on the Law of the Sea, the Secretary-General of the United Nations initiated a series of consultations on outstanding problems relating to part XI of this Convention. The last round of these consultations under his leadership took place only yesterday.

(Mr. De Marchant et d'Ansembourg, Netherlands)

The European Community and its member States would like to take this opportunity to pay tribute to this initiative taken by His Excellency Secretary-General Javier Perez de Cuellar. His dedication to solving the problems related to the law of the sea and to achieving its universal acceptability is but one of the many things for which the member States have to thank the present Secretary-General. Considering the progress made and the positive atmosphere in which these discussions took place, the European Community and its twelve member States would like to express their wish for the continuation of informal consultations with interested delegations aimed at finding solutions to the remaining problems related to a legal regime for deep seabed mining. We would consequently urge the Secretary-General-designate of the United Nations to pursue and conclude the efforts of his predecessor.

Six sessions of these informal consultations have now been held, including the last round, which took place at the beginning of this week. The most important outstanding issues were first identified and a way of dealing with them was then discussed. There was a general convergence towards the approach of examining all the outstanding issues with a view to resolving them and deciding how to deal with those that might remain unsolved. This approach does not exclude the possibility of resolving all issues, nor does it exclude the possibility that there may be issues that are not capable of being resolved at this time and therefore may be postponed.

The Twelve have noted with appreciation that the delegations taking part in these informal consultations, whether from developing or industrialized countries, have undertaken the examination of the outstanding problems in a cooperative spirit, with a result-oriented approach based on an attitude of

(Mr. De Marchant et d'Ansembourg, Netherlands)

increasing pragmatism. It is hoped that the discussions will continue in the present atmosphere, particularly now that the several outstanding problems relating to part XI of the Convention have been identified and examined.

Considerable progress has been made in tackling the remaining problems, not only in informal consultations but also within the Preparatory Commission. For this reason the European Community and its member States hope that all these outstanding problems will be resolved before the Convention enters into force, thus rendering possible the universal participation it deserves and, likewise, the necessary financial support to ensure its success.

I should like to highlight a few other events relating to the law of the sea. The European Community and its member States took note with appreciation of the annual Report on the Law of the Sea (A/46/724) by the Secretary-General. Again, the Special Representative of the Secretary-General for the Law of the Sea and Ocean Affairs, Mr. Satya Nandan, and his enthusiastic and very competent staff have delivered a report of high quality and broad scope.

We also wish to express our appreciation for the many activities that have been undertaken by the Office for Ocean Affairs and the Law of the Sea during the past year. During that period the activities of this office have ranged from the organization of the high-seas-fisheries meeting and the publication of the guide concerning marine scientific research to the editing and publication of a most valuable bibliography on the law of the sea. The Twelve look forward to the continuation of the indispensable work of the Office for Ocean Affairs and the Law of the Sea, which is of benefit to all those interested in the subject.

(Mr. De Marchant et d'Ansembourg, Netherlands)

In conclusion, the European Community and its member States sincerely hope that 1992 will be a successful year for all the activities embarked upon, whether they be the continuing informal consultations of the Secretary-General of the United Nations, the work within the Preparatory Commission or any other item relating to the law of the sea.

Mr. LINTON (Sweden): This year Sweden is again a sponsor of the draft resolution (A.46/L.44) on the Law of the Sea. First of all, I wish to express my delegation's thanks for the impressive and exhaustive reports (A/46/722 and A/46/724, prepared by the Special Representative of the Secretary-General for the Law of the Sea and Ocean Affairs, Mr. Satya Nandan. While reflecting the complexity of legal matters, the reports also demonstrate the future potential of the oceans for the benefit of mankind.

An important part of the reports deals with the issue of conservation of the environment. One of the primary objectives of the United Nations Convention on the Law of the Sea (UNCLOS) is the establishment of a legal regime designed to promote the equitable and efficient utilization of the resources of the seas and oceans, the conservation of their living resources and the protection of the marine environment. The Convention sets out principles concerning the conservation of living resources on the high seas, aiming at environmentally sustainable development. In this context, Sweden welcomes the proposal for a global moratorium on all large-scale pelagic drift-net fishing on the high seas as an example of the trend toward discouraging non-sustainable fishing practices.

The United Nations Convention on Law of the Sea, a convention of codification and of the progressive development of international law, is undoubtedly one of the most ambitious projects undertaken to date by the

(Mr. Linton, Sweden)

United Nations. It is important to maintain the spirit of cooperation that inspired us to convene the Third United Nations Conference on Law of the Sea more than 15 years ago.

In considering how to approach the tasks ahead we need to bear in mind the evolving context in which we are working. The Convention has not yet formally entered into force. However, the importance of universal acceptance and implementation of the rules and principles set out in the Convention is being increasingly recognized in international and regional forums, particularly those dealing with the conservation and management of living marine resources and the protection of the world's oceans and seas. This is a clear tribute to the great achievement which the Convention represents.

At the same time, however, the ongoing difficulties associated with one part of the Convention have prevented it from attaining its full potential. Accordingly, particularly now when only nine more ratifications are needed before the Convention enters into force, increased efforts must be made to find solutions to the remainlng difficulties that stand as a barrier to universal acceptance.

The Preparatory Commission, which occupies the pivotal role in preparing for the entry into force of the Convention, has paved the way for a solid basis for future endeavours. The agreement on the obligations of pioneer investors is one good example. My delegation wishes to compliment His Excellency Ambassador Jose Luis Jesus for his important role in promoting the work of the Preparatory Commission utilizing all opportunities for formulating abiding and workable solutions to the problems it is charged with considering.

(Mr. Linton, Sweden)

At the Kingston session this year the need was noted for the Preparatory Commission to streamline and rationalize its work programme and to focus its work on issues which appear capable of resolution. We must recognize when approaching this task that circumstances have changed since the Convention was opened for signature in 1982. In particular, deep seabed mining is now a more distant prospect than when we started our work in the Preparatory Commission nine years ago. This in turn must influence the approach to be taken. It appears that we have arrived at a stage in our work where an assessment should be made as to what has been achieved and what remains to be resolved with a view to identifying those issues we might usefully explore now, as well as others that may not be ripe for detailed elaboration.

Over the last year consultations have been convened by the Secretary-General with the goal of facilitating progress on some contentious part XI issues. I wish to convey my Government's great appreciation to the Secretary-General for offering a forum for our common goal: to arrive at universal acceptance of the Convention on the Law of the Sea. It is indeed our hope that the dialogue on the implementation of the Convention will be continued with the participation of a wider group of States.

My delegation notes with satisfaction the fact that one important country this year has changed its voting pattern with regard to the draft resolution. On the other hand, any solutions that may be proposed in the context of future talks will need to be considered by the Preparatory Commission itself which, in accordance with resolutions I and II, is the body mandated to prepare the ground for the entry into force of the Convention.

To conclude, the Swedish delegation welcomes the present draft resolution and considers the suggested wording for paragraph 4 to be of particular

(Mr. Linton, Sweden)

significance as it links the issue of ratification of or accession to the Convention to the need to promote universal participation in the Convention and any measures that that might entail.

Mr. O'BRIEN (New Zealand): I should like to join New Zealand's voice to the many others which have already been heard and express New Zealand's appreciation to the Secretary-General for his comprehensive report, which surveys developments with regard to the law of the sea. This report, along with the separate reports on the needs of States and on drift-net fishing, are, we think, testimony to the professionalism and dedication of the Secretary-General's Special Representative for the Law of the Sea, Mr. Satya Nandan, and the skilled staff in the Office of Ocean Affairs and the Law of the Sea.

The vast and diverse range of issues surveyed in the Secretary-General's report demonstrate the comprehensive regime the United Nations Convention on the Law of the Sea embraces. In 1992 we will celebrate the tenth anniversary of the adoption of the Convention. This provides an opportunity to reflect on the remarkable contribution the Convention has made to the conduct of international maritime relations.

While the Convention did not resolve a small number of issues contained in part XI in a manner satisfactory to some States, taken as a whole the Convention ranks as perhaps the most important achievement in the field of international law accomplished during the last decade. For New Zealand, as for many other delegations, the establishment of a legal regime governing all aspects of ocean use, which would command universal support from the international community, was our prime goal during the Third United Nations Conference on the Law of the Sea.

(Mr. O'Brien, New Zealand)

Since the adoption of the Convention we have supported a constructive approach to issues in part XI which, in the view of some States, had not been satisfactorily resolved. We are pleased to observe that prospects for further progress towards a universally acceptable Convention now seem better than they have been for several years. The informal consultations convened by the Secretary-General on part XI provisions have resulted in a constructive dialogue on issues which had hitherto appeared beyond resolution. With the cooperation, determination and commitment of all, New Zealand considers that the long-awaited goal of a universally accepted Convention on the Law of the Sea will be attained.

It is important that we work together on all fronts to enhance possibilities for the early achievement of a universally acceptable Convention. The dialogue initiated by the Secretary-General has been very constructive. But it is also of crucial importance that within the Preparatory Commission on the law of the sea complementary efforts be made to promote the goal of universality. We believe that the Preparatory Commission, in bringing negotiations on the issue of pioneer investor obligations to a successful conclusion demonstrated last year, demonstrated its capacity to find solutions to difficult issues. We are hopeful that the constructive spirit that now pervades discussion on law of the sea issues will have a positive impact on the work which remains to be carried out by the Preparatory Commission.

In recent years, as the nations of the world have become more conscious of the need to protect the global environment and to ensure sustainable development of the world's resources, greater recognition has been accorded to

(Mr. O'Brien, New Zealand)

the need for full implementation of the provisions of the Convention dealing with the preservation of the marine environment and the conservation and management of living marine resources.

But mere recognition that the Convention's provisions on such matters are not being implemented is, quite frankly, not enough. Indeed, the Secretary-General's report highlights the fact that effective action and practical measures must be taken by States to ensure the full implementation of the relevant provisions of the Convention in these areas.

Despite the substantial body of existing international law concerning the protection and conservation of the marine environment, it is apparent that the marine environment and its resources are subject to serious and increasing degradation. New Zealand endorses the call made in the Secretary-General's report for existing agreements and instruments concerning the preservation of the marine environment to be properly implemented by States.

It is equally apparent from the report of the Secretary-General that world fisheries are now facing a crisis situation; over-fishing, stock depletion and the use of insufficiently selective fishing gear are among the principal causes. The Convention on the Law of the Sea requires States to take practical measures and to cooperate with other States for the conservation of the living marine resources of the high seas. Clearly, the requirements of the Convention are not being met in this area.

Strengthened international cooperation to address such matters is therefore of paramount importance. The objective must be to develop practical principles and measures consistent with and pursuant to the framework of cooperation set out in the Convention that will serve to ensure the rational utilization and conservation of living marine resources of the high seas.

(Mr. O'Brien, New Zealand)

Like the representative of Canada who spoke this morning, I want to quote from a key part of the Secretary-General's report, where he says:

"The elaboration of the law of the sea regime for the rational management and conservation of high-seas living resources is now firmly inscribed on the international agenda." (A/46/724, para. 130)

That is a very important statement, and we all need to accept and acknowledge the point.

(Mr. O'Brien, New Zealand)

Some progress has indeed already been made in addressing harmful fishing methods and practices. The international action against drift-net fishing taken by the Assembly beginning in 1989 with the adoption of resolution 44/225 and the measures taken in the various regions of the world to prohibit this harmful practice are instructive examples. We applaud in particular the recent action taken in the Second Committee at this session of the General Assembly which has determined that global moratoria on large-scale pelagic drift-net fishing on the high seas will take effect from 31 December 1992.

In our efforts to develop further principles and measures that will ensure effective conservation and management of high seas marine living resources, we need to proceed with a commitment equal to that which guided our efforts on drift-net fishing.

In appropriate international forums, and particularly in the context of the Rio de Janeiro Earth Summit next year, New Zealand will be working with others, including the distant-water fishing nations and coastal States, to elaborate appropriate principles and measures that should govern high seas fishing.

New Zealand has been cooperating closely with other concerned coastal States, in particular Canada and Chile, to elaborate the high seas fisheries provisions of the Convention in order to provide for their better implementation. We are pleased to have found wide support for these ideas from States from all regions of the globe. We are convinced that the international community must take urgent action to ensure that the Convention's provisions for the regulation of fisheries on the high seas are properly observed. With other countries we have introduced a proposal for the consideration of the United Nations Conference on Environment and Development

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which is drafted with this objective in view. We commend it to the attention of Member States, for we believe that it is essential that the Earth Summit in Rio de Janeiro ensure better protection of the marine living resources of the high seas.

We welcome the greater recognition accorded to the need for effective conservation and management of living marine resources in the draft resolution before the General Assembly today. We believe, as do others who have already addressed the item, that there are certain points in it worthy of note:

The sixteenth preambular paragraph expresses the concern our fishing methods and practices, including those aimed at evading regulations and controls, which can impact adversely on the conservation and management of living marine resources.

The seventeenth preambular paragraph recognizes the need for conservation and management measures which give full effect to the provisions of the Convention.

Paragraph 21 calls on States to strengthen their cooperation and to adopt the necessary measures, including the prevention of fishing measures and practices which can have an adverse impact on the conservation and management of marine living resources. States are further asked to comply with the regimes established by regional fisheries organizations and to adopt the necessary monitoring and enforcement measures.

Our hope, and indeed our expectation, is that the vote on the draft resolution will reflect a greater degree of consensus than previously. Such a result will strengthen progress towards the goal of universality.

(Mr. O'Brien, New Zealand)

New Zealand has joined the sponsors of the draft resolution, which highlights the challenges that remain to be faced in the law of the sea context and recognizes the achievements that the Convention as a whole represents. We also wish to express our thanks for the joint efforts of Ambassador Jesus of Cape Verde and Under-Secretary-General Nandan for bringing the resolution to its present form.

Mr. TREVES (Italy): The discussion on the item under consideration today is an important occasion in the yearly calendar of activities concerning the law of the sea. Although the time allotted is not long, it makes it possible to take stock of the events of the past 12 months and to assess the trends. It is the only universal forum that makes it possible to consider the subject as a whole, without undue emphasis on one or another of its aspects.

Nine years have elapsed since the United Nations Convention on the Law of the Sea was opened to signature, on 10 December 1982. The political circumstances of the world and the specific circumstances of the law of the sea have undergone important changes since then.

The East-West tensions are gone. Different outlooks prevail as regards economic development. Global environmental concerns are much more widely shared.

As far as the seas are concerned, the importance of good order and legal certainty becomes more evident every day, in light of the disappearance of the balance and competition between the two main naval super-Powers and the emergence of a number of national ambitions in various corners of the world. This underlines the need for States to abide by a precise code of conduct on the seas. In our opinion, such a code of conduct is contained in the 1982 Convention. The rules of the Convention are such as to ensure adequate

(Mr. Treves, Italy)

balance between the needs of the coastal States and those of other States also interested in matters of the sea. Its environmental provisions provide a framework for progress on the basis of which new rules adequate for taking new needs into account can be elaborated.

Only the rules on deep seabed mining have been partially flawed and are difficult to apply. The assumptions on the prospects of seabed mining that were prevalent in the 1970s and early 1980s are now universally regarded as over-optimistic and unrealistic. Deep seabed mining is not for today, and it may not be feasible even for the next few decades. The elaborate structure described in the Convention for the conduct and control of seabed mining appears to be an empty shell, the only effect of which is to discourage a group of important States - those that might one day actively engage in deep seabed mining - from becoming parties to the Convention.

In the world's present situation, it is, in our opinion, of the utmost importance to remove the obstacles that prevent participation in the Convention by the most important Powers. A non-universal Convention on the Law of the Sea would contain the seeds for possible loss of consensus even on the basic tenets that have so far become part of international law, such as the maximum width of the territorial sea and of the exclusive economic zone. Moreover, the subtle compromises contained in the Convention on delicate substantive issues might never materialize as law, and the ambitious conflict-solving procedures, albeit necessary for giving certainty to a very complex system of rules, would never come into existence.

The difficulties with regard to deep seabed mining appear to be of minor importance in comparison with what is at stake - peaceful coexistence on the seas and oceans. They must be overcome.

(Mr. Treves, Italy)

The initiative undertaken in July 1990, and continued on six occasions up to yesterday evening by the Secretary-General for informal discussion of the outstanding issues on the deep seabed mining provisions of the Convention seems to us the most promising avenue to overcome these obstacles. We wish to join other speakers - in particular the representative of the Netherlands when he spoke on behalf of the European Community and its 12 member States - in praising Mr. Javier Perez de Cuellar for this timely initiative.

(Mr. Treves, Italy)

With the cooperation of a group of interested States which engaged in discussions without preconditions and with an open mind, and with the invaluable support of Under-Secretary-General Nandan and his staff, these consultations have succeeded in identifying the issues which need to be tackled and have also proceeded to a first examination of these issues, an examination from which an impressive consonance of views has emerged on the kind of solutions that can be envisaged.

It seems clear that the guiding principle accepted in the consultations is that of comparing the provisions of the Convention with the present prospects for deep seabed mining and with the changed outlook in international economic cooperation. From this starting-point, an evolutionary, pragmatic set of solutions seems to be in the process of emerging: institutions should be created only when they are to perform effective functions and within the limits needed for performing these functions; the rules on decision-making must be reconsidered in order to streamline the system and to give adequate guarantees to those States which are ready to incur considerable risk in deep seabed mining. Some controversial problems cannot be solved in detail as long as commercial production from the seabed is not imminent, but basic principles can be agreed upon.

This sizeable progress must not be lost. A lot of work is still needed, to give shape and detail to the broad consensus that is in the making. The end result should be such as to permit those States that have already ratified the Convention to adjust their obligations without important political sacrifice, and those which have not yet done so to become party to a Convention which is so adjusted as to have eliminated the existing difficulties. The need for widening the base of the present consultation

(Mr. Treves, Italy)

undoubtedly exists, but one must not lose sight of the fact that efficiency requires a forum that permits concentrated work.

Once again we wish to join our voice to that of others in urging the Secretary-General-elect of the United Nations to continue this initiative with the modalities he, in his wisdom, will consider the most appropriate, in order to attain the objective of creating the conditions for the universal acceptability of the Convention. The Convention is one of the main achievements of the United Nations, and it is well worth the effort still necessary to make it a binding document that can help to maintain peace and order over two thirds of the world's surface for many years to come.

As every year, the Secretary-General's report on the law of the sea is an extremely useful and valuable document.

The first piece of information in the report concerns the present status of the 1982 United Nations Convention on the Law of the Sea: 51 States have ratified it or acceded to it. The movement towards the sixtieth ratification and entry into force has undoubtedly picked up speed during 1991. Yet almost no developed country and just a few of the major countries of the Third World are among the 51. This illustrates once again the need to make every effort to ensure the conditions for a more balanced participation. It also shows, however, that the time available for these efforts is not unlimited. While even after the 60 ratifications mark has been reached, and perhaps also even after entry into force, possibilities for overcoming outstanding problems regarding deep seabed mining would remain open, it seems obvious that efforts in that direction would become more difficult. The reluctance already visible now in the States that have ratified the Convention to look again at the obligations they have agreed to assume would become stronger. Conversely, the

(Mr. Treves, Italy)

temptation sometimes emerging in some of the States which have not yet ratified to entrust to customary law the protection of their interests might, rightly or wrongly, be strengthened.

Secondly, it is very interesting to note the information as to the influence of the Convention on international practice. This is visible proof of the vitality of the Convention and of the necessity of preserving it. The same must be said for the reliance - which has clearly increased during the year just elapsed - on judicial and arbitral means for the settlement of international disputes concerning the Law of the Sea. It is worth noting that such reliance - even though principally focused, as in the past, on questions of the delimitation of maritime areas - is starting to expand to other questions.

Thirdly, from the brief but precise information given on the Preparatory Commission, it emerges that the Commission continues its valuable activities in the implementation of resolution II of the Third United Nations Conference on the Law of the Sea. Two new pioneer investors have been registered and discussions are well under way for defining their obligations. In this context we should like to express some concern as regards the emerging trend to apply different obligations to different pioneer investors on the basis of differences in the applications they submitted; these differences, in our opinion, hardly justify such different treatment. Potential applicants, of which Italy is one, will resist any tendency that might ensue from this trend to reserve to them - when and if they apply for registered pioneer status - a treatment that is not similar on the basis of similar relevant conditions.

As regards the preparation of rules and regulations of the future International Seabed Authority, the report confirms that on many subjects real

(Mr. Treves, Italy)

progress is, at the present juncture, impossible because of lack of knowledge of the reality of seabed mining or because broader consensus on the necessary adjustments to the Convention has not yet been reached. It also emerges, however, that realistic approaches are prevailing on many issues, and this is welcome. The shortening of the sessions of the Preparatory Commission is also a promising signal.

The activities of the Office for Ocean Affairs and the Law of the Sea continue to be intense, and worthy of the usual praise. Under-Secretary-General Satya Nandan and his colleagues have succeeded in making the Office the foremost centre of activity and information on the Law of the Sea and related affairs. The publications of the Office have become a necessary point of reference for all those who, in Government or in scholarly research, try to have an updated knowledge and comprehension of the legal and political aspects of the seas. In particular, Italy welcomes the important contribution the Office is making as the coordinating body for United Nations participation in the international exhibition that will be held in Genoa, Italy, in 1992, on the occasion of the 500th anniversary of Christopher Columbus's voyage.

The draft resolution we are going to adopt, although it retains the basic structure of those approved in previous years, presents important improvements. The realistic appraisal of the changed situation of the world and of its consequences on the Law of the Sea, as well as of the linkage between overcoming the difficulties concerning the seabed mining provisions of the Convention and its universality, still hidden behind obscure and in part contradictory language in 1990, have in this year's draft resolution become

(Mr. Treves, Italy)

explicit. This is a welcome, important first step towards broadening the scope of agreement on the outlook adopted in the informal consultations promoted by the Secretary-General, and within the most important official forum of the United Nations, namely the General Assembly.

Mr. NYAKYI (United Republic of Tanzania): In our statement a year ago, almost to the day, we emphasized that world peace and security could be significantly advanced and improved if the seas of the world were used to enhance cooperation between nations. That cooperation, especially between the North and the South, is even more relevant and urgent now than in the past. The ending of the cold war has created a climate conducive to such cooperation. Just as the seas join countries to become a single village, the seas in many ways offer a singular opportunity for international economic cooperation. The United Nations Convention on the Law of the Sea could not have been more timely.

We are pleased to note that the Convention is gaining more universality. Now there are 51 ratifications and accessions. This means that the Convention is only nine ratifications or accessions away from its entry into force, which we have no doubt will happen soon.

According to figures released recently, the 51 countries to which I have referred account for only 4.41 per cent of contributions to the regular budget of the United Nations. This is not a healthy starting point, especially because the North seems reluctant to join in making it enter into force and enabling it to become operational. We therefore commend the initiative of the Secretary-General to convene informal consultations aimed at achieving universal participation in the Convention.

While these consultations may be useful, they have, in some instances, engendered some understandable fear on the part of developing countries that they might lead to an overhaul of part XI and erode the basic noble concept which underlies that part - that is, the common-heritage-of-mankind principle. This Convention represents an international effort to establish a

(Mr. Nyakyi, United Republic of Tanzania)

just and equitable international economic order. For this reason, the United Republic of Tanzania hopes that nothing will be done to the Convention that undermines that goal.

We have taken note of the progress made in settling conflicts and disputes, particularly those relating to maritime boundaries. This indicates the confidence of States in the role played by the International Court of Justice and the recognition of its competence in resolving conflicts and disputes relating to matters covered by the Convention.

On the question of international peace and security, we hope that major maritime Powers, in view of ongoing political changes, will reduce their military presence in the seas. They should cooperate with those regions that have declared their areas zones of peace and security.

States which transport and dump toxic and hazardous substances into the sea are damaging the ocean environment, to the detriment of mankind. This damage and damage to the seas by other means are matters which have been regulated by the Convention and many other legal instruments.

Regarding conservation and management of the living marine resources, there have been recent developments which will contribute to the prevention of fishing methods and practices that can have an adverse impact on the conservation and management of marine living resources. A number of high seas areas were vulnerable to unregulated fishing and destructive fishing practices such as drift-netting. But, with cooperation, some States have indicated their intention to desist from those fishing practices. Conservation and management of marine resources will be more effective if States will take adequate measures to oversee the fishing activities of their nationals and share data and information between themselves and with the relevant

(Mr. Nyakyi, United Republic of Tanzania)

international organizations. Again, the Law of the Sea Convention offers a good framework for cooperation on this subject.

This brings us to the question of the needs of States in developing and managing their resources. We highly commend the Secretary-General for his comprehensive report on the measures undertaken in response to the needs of States in the development and management of ocean resources. It is encouraging to note that a good number of States and organizations within the United Nations system and its specialized agencies and other international organizations responded to the report of the Secretary-General on those needs, by transmitting their comments. Apart from the information and suggestions received, the report contains an analysis of that information and those suggestions, providing for possible courses of action. This is very important and useful to developing countries.

Tanzania wishes to extend its gratitude to those countries that have assisted it in its ocean development and management projects. In its capacity as current Chairman of the Organization for Indian Ocean Marine Affairs Cooperation (IOMAC), Tanzania wishes also to thank those that have indicated their intention to assist the organization technically, financially or otherwise. IOMAC is a focal point for cooperation between Indian Ocean States.

The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea will continue meeting in order to discharge the mandate given to it. We hope it will accomplish its work as soon as possible to the satisfaction of all parties.

(Mr. Nyakyi, United Republic of Tanzania)

We wish to pay a special tribute and express our gratitude to the Office for Ocean Affairs and the Law of the Sea for its commendable work and its dedication to carrying out the activities assigned to it by the General Assembly. We particularly take note of the responsibilities cf that Office in meeting the needs of States and regional organizations by providing them with advice and assistance. The role that that Office has played in assisting the Secretariat of IOMAC is much appreciated. We call on Governments and international organizations to extend more cooperation and assistance to the Office.

The objective of the Convention is to contribute to the maintenance of peace, justice and progress for all mankind. It is our earnest hope that the unified character of the Convention will be maintained whilst its universality is achieved.

In conclusion, I should like to assure the Assembly again of Tanzania's full cooperation in the efforts to achieve these objectives.

Mr. KALPAGE (Sri Lanka): On behalf of the delegation of Sri Lanka I am happy to participate in the debate on agenda item 36, "Law of the sea".

The subject of the oceans was first raised in the General Assembly by the delegation of Malta in 1967. The then Permanent Representative of Sri Lanka, the late Shirley Amerasinghe, played a notable role in the work of the Seabed Committee as its Chairman. It was that Committee's work that led to the adoption on 30 April 1982 of the United Nations Convention on the Law of the Sea by the Third United Nations Conference on the Law of the Sea, of which also Shirley Amerasinghe was also President. It was the result of one of the most prolonged and important negotiating processes in the codification and progressive development of international law.

(Mr. Kalpage, Sri Lanka)

My delegation wishes to express its sincere appreciation to the Secretary-General for his precise and very comprehensive report (A/46/724). Member States are indeed fortunate to be kept so well informed of world-wide developments regarding the many and varied aspects of ocean affairs.

The Special Representative of the Secretary-General, Mr. Satya Nandan, and the United Nations Office for Ocean Affairs and the Law of the Sea are to be congratulated for the useful functions they continue to perform so well. The Preparatory Commission for the International Sea-bed Authority and for the International Tribunal for the Law of the Sea continues to labour unceasingly under the distinguished chairmanship of Ambassador Jose Jesus of Cape Verde. We wish to record our deep appreciation for this work.

The United Nations Convention on the Law of the Sea is the pre-eminent international legal instrument on all matters concerning the seas and oceans, which occupy more than 70 per cent of the surface of the globe. As of the end of November 1991, a total of 51 States have either ratified or acceded to the Convention, which will enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. It is hoped that this will occur in the not too distant future.

We note that during 1991, the Secretary-General continued his informal consultations aimed at achieving universal participation in the Convention. It is indeed heartening that problem areas for some States have been identified relating to the regime for deep-seabed mining and that considerable progress has been made towards achieving broad agreement on the issues involved.

(Mr. Kalpage, Sri Lanka)

There is today a world-wide awareness of the tremendous potential that the seas and oceans have to offer for human development. Through the efforts of the United Nations, the world community has sought to codify and progressively develop international laws to regulate the use of the oceans and their resources in a rational and responsible manner. The sense of responsibility with which the nations of the world have sought to develop this "common heritage of mankind" has been heightened as we approach the United Nations Conference on Environment and Development.

The mechanisms and institutions that have been developed through the efforts of the United Nations are of special importance to developing countries. The information and knowledge made available to those countries would assist in keeping them abreast of rapidly-changing developments in ocean affairs. These valuable United Nations activities should be continued even after the entry into force of the Convention.

I wish to refer to one example which shows the very substantial concern that developing countries, especially the smaller ones, have for matters relating to Ocean Affairs, namely the the Indian Ocean Marine Affairs Cooperation (IOMAC). Sri Lanka takes great satisfaction in its initiative to foster cooperation among the African and Asian States of the Indian Ocean region through IOMAC, whose chairmanship has now been assumed by the United Republic of Tanzania.

The purpose of IOMAC is to encourage and facilitate action-oriented and pragmatic cooperation on economic, scientific and technical matters as well as in projects on marine affairs of the Indian Ocean.

(Mr. Kalpage, Sri Lanka)

Since 1985, IOMAC has progressed steadily. In 1990 the Arusha Agreement on Indian Ocean Marine Affairs Cooperation was adopted. Since then the 7th meeting of the Standing Committee of IOMAC has been held in Colombo, in July 1991. The Standing Committee dealt with the practical arrangement for cooperation, not only among the African and Asian States of the region, but also with other States active in the region, in particular the major maritime Powers. IOMAC has established a technical cooperation group, which involves the active participation of these extraregional States. The participation of the developed countries in IOMAC will greatly assist in the sharing of their technology, scientific knowledge and experience with the countries of the Indian Ocean region and will help to maximize benefits.

We wish to thank the Special Representative of the Secretary-General for the Law of the Sea for his continued assistance in the IOMAC process, for the representation of his Office in its meetings and for the substantive support it has provided.

In 1989, Sri Lanka also took the initiative to propose a study by the Secretary-General on the needs of States in regard to the development and management of ocean resources. We welcomed the first report submitted last year and take pleasure this year in receiving the second report of the Secretary-General.

The report draws upon the wide experience of Member States and brings into focus the activities of international organizations and agencies of the United Nations system and those outside. It synthesizes the strategies and directions for facilitating the efforts of developing countries to harvest the potential of ocean resources.

(Mr. Kalpage, Sri Lanka)

We note the extremely useful publications of the Office of Ocean Affairs and the Law of the Sea mentioned in part two of the report of the Secretary-General on the law of the sea. There is a wide range of excellent publications: specialized bibliographies, analytical studies evaluating important aspects of the Convention, series of studies on the practices of States and technical guidelines covering complex provisions of the Convention.

We note in particular the study on the Regime for Marine Scientific Research, which the IOMAC Standing Committee considered to be extremely useful. IOMAC has requested that this study be distributed to its participants.

In conclusion, it is with great pleasure that Sri Lanka has jointly sponsored the draft resolution submitted to the General Assembly in document A/46/L.44.

Mr. VILLEGAS (Mexico) (interpretation from Spanish): My delegation wishes once again, on this occasion, to express its gratitude to the Secretary-General for his reports, which are the basis for our discussion of the item before us. They give an account of the consolidation of important elements of the law of the sea which are increasingly being incorporated in the legislation of the various States Members of the United Nations, and which highlight the benefits provided by the Convention.

It is particularly important to emphasize that, as of today, 82 States have proclaimed exclusive economic zones, 16 States claim exclusive fishing zones within the 200-mile limit, 133 States have chosen to adjust the extent of their territorial seas to the 12-mile limit established by international law; and there is a further strengthening of the guidelines for the preservation of the marine environment and the conservation of species, in the terms established by the Convention, while at the same time the notion of the common heritage of mankind retains its original validity.

The systematic efforts made by the Office for Ocean Affairs and the Law of the Sea, as described in part two of the report (A/46/724), to ensure a better understanding of the terms of the Convention, and the assistance that Office has provided towards the ratification of the Convention, merit our high esteem. We also recognize the unquestioned contribution made by that Office towards increasing the number of ratifications of the Convention, which now stand at 51 States. We also value the efforts at promotion and dissemination that it has sponsored in various parts of the world.

As regards Latin America, we are pleased to mention in particular the holding of seminars in Montevideo, Uruguay, in April of 1991, and in Santiago de Chile, in May of this year, at the headquarters of the Economic

(Mr. Villegas, Mexico)

Commission for Latin America. The purpose of the latter meeting was to evaluate the extent to which the Convention on the Law of the Sea had been implemented, and to examine the possibilities of achieving universality.

With the passing of time the validity of the central concepts of the Convention has been confirmed, and it has become evident that there are certain realities which we cannot ignore today, realities generated by profound political and economic changes worldwide, which could not have been fully foreseen at the beginning of the last decade. My Government therefore appreciated the timely dialogue initiated by the Secretary-General for the purpose of considering the difficulties that have kept certain States from adhering to the Convention, and we have, from the beginning, taken part in the discussions in a constructive spirit.

The Secretary-General's initiative, aimed at gaining universal adherence to the Convention through informal consultations, is fully in keeping with the invitation made by the General Assembly to Member States to make renewed efforts to facilitate universal participation in the Convention on the Law of the Sea and to contribute to the successful conclusion of the work of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea.

We share the point made in the introduction to the report that achievement of the number of ratifications necessary for the entry into force of the Convention, which is coming ever closer and for which we have been making active efforts, should not be regarded as an end in itself. Our ultimate objective should be to achieve the highest degree of participation by States.

(Mr. Villegas, Mexico)

We wish to refer to paragraph 20 of the Secretary-General's report (A/46/724), which we wholeheartedly endorse. We refer to the need to widen the participation in the informal consultations. We thank the Secretary-General for his wise initiative and we trust that the consultations will continue, with the same diligence as has characterized them so far, in the search for concrete results. We invite all States to participate, in the most constructive way possible, in the quest for an effective and balanced convention which, while preserving the major gains already achieved, will be adapted to the requirements of the present time.

We are particularly grateful for the creative and indefatigable work done by Ambassador Jose Luis Jesus of Cape Verde, in the delicate conduct of the work of the Preparatory Commission. We also acknowledge the valuable contribution made to the international community by the Office of Ocean Affairs, and in particular by the head of the Office, Mr. Satya Nandan, the Personal Representative of the Secretary-General for the Law of the Sea, with his invaluable support both to the Preparatory Commission and to other important activities. These include the promotion of the Convention on the Law of the Sea through the holding of symposia, such as those mentioned in the Secretary-General's report, the awarding of fellowships, and the ongoing information work, as a result of which it has been possible for him to publish collections which have become an accurate source of reference material for specialists and which we should like to see made available to a broader public, including universities.

Today's revolutionary changes in the technological, economic and political fields worldwide have resulted in a shortening of distances and have consequently led to a climate propitious to international cooperation, a

(Mr. Villegas, Mexico)

climate seldom experienced in the past. The promise of development and well-being which the sea has always represented, is now closer to fulfilment. The international community has before it the challenge of taking advantage of the rich juridical and political patrimony represented by the law of the sea that has developed so far, and of raising it to levels of higher maturity, commensurate with the role which this resource is called upon to play for all humanity both now and in the future.

As a State which has ratified the Convention and co-sponsored the resolution on the law of the sea, Mexico sees as encouraging signs - which could bring us closer to that common objective - the attitude which prevailed in the negotiations on the relevant draft resolution this year and also the attitude of delegations which, although they had in the past voted against the resolution, were willing this year to change their negative vote.

We wish to take this opportunity to reiterate Mexico's commitment to continuing participation in the common efforts to improve the regime of the law of the sea.

Mrs. FLORES (Uruguay) (interpretation from Spanish): First, my delegation wishes to thank the Secretary-General and his Special Representative for the excellent reports contained in documents A/46/722 and A/46/724, which, like previous reports, set out the most significant recent developments pertaining to the Convention and show the principal relevant trends.

The profound changes made in the law of the sea over the last few decades have demonstrated that the idea that marine resources are inexhaustible and that oceans may be used and exploited in an unrestricted manner to provide the maximum benefit for States has been replaced by recognition of the need for sustainable, equitable and efficient exploitation aimed at conserving marine resources and at protecting and preserving the marine environment.

That criterion of rationality was embodied in the United Nations Convention on the Law of the Sea. Uruguay was a participant in that process and is now working on the final stages of the process of ratifying the Convention.

My delegation shares the concern that other delegations have expressed about the need to achieve universal participation in the Convention, and hence we feel that the Secretary-General's initiative in arranging informal consultations with a view to achieving wider accession to the instrument is extremely positive.

Paragraph 20 of the report (A/46/724) refers to the possibility of widening participation in the consultations. My delegation feels that it would be more appropriate to open the meetings to all States Members of the Organization.

(Mrs. Flores, Uruguay)

As is rightly pointed out in the Secretary-General's report, the Convention has had a growing influence on various aspects of the law of the sea. The Secretary-General emphasizes those aspects pertaining to the delimitation of maritime jurisdictional zones. Indeed, States have increasingly adapted their domestic legislation to the provisions of the Convention, made declarations to implement those provisions and endorsed the law of the sea . th in time of peace and in the event of conflict.

In the sphere of the peaceful settlement of disputes between States on maritime matters, the agreements that have been concluded and the jurisdictional decisions that have been adopted take account of the norms of the Convention.

With regard to the prevention of naval incidents at sea and confidence-building in the maritime sphere, the Convention, whose principles and norms are in harmony with Conventions of the International Maritime Organization, has likewise had a beneficial effect.

My delegation believes that the protection and preservation of the marine environment and the conservation and orderly management of its living resources are closely linked to the strengthening of cooperation. These points are analysed in the report.

In that connection, it would be desirable to promote the establishment of regional international organizations made up of States with ocean coastlines, or with interests related to the exploitation of the region's natural resources, with a view to facilitating studies, exchanges of scientific information, controls, the transfer of technology, the application of technology on a cooperative or joint basis, research, prospecting and

(Mrs. Flores, Uruguay)

regulation of the exploitation of the resources through programmes in the context of cooperation provided for in the Convention.

Some interesting references to regional cooperation in respect of maritime affairs are to be found in paragraph 15 and the subsequent paragraphs of the Secretary-General's report contained in document A/45/721. An example is the Organization for Indian Ocean Marine Affairs Cooperation (IOMAC) which was mentioned earlier. Similarly, the creation of regional centres of marine technology, which are also provided for in the Convention, affords an appropriate means for the exchange of know-how between States, as is pointed out in paragraph 70 of document A/46/722.

My country is concerned about the use on the high seas of certain fishing practices and methods that damage the environment and threaten the biological resources in exclusive economic zones. The establishment of regional bodies would be a practical means of implementing the commitment assumed by States

"To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character"

(Charter of the United Nations, Article 1, para. 3),

which is one of the fundamental purposes of the United Nations.

Lastly, my delegation wishes to reaffirm the importance it attaches to the work done by the Preparatory Commission in its dual role as the institution in charge of the implementation of the transitional regime before the entry into force of the Convention and as the institution in charge of the adoption of measures conducive to the establishment of the Authority.

Mr. ORDZHONIKIDZE (Union of Soviet Socialist Republics) (interpretation from Russian): The question of the law of the sea has been considered on numerous occasions at plenary meetings of the General Assembly.

(Mr. Ordzhonikidze, USSR)

In our view, that reflects the extremely important role of the Convention on the Law of the Sea, which governs the international legal regime in respect of the world's oceans and encompasses virtually all types of activity involving the utilization of ocean spaces and ocean resources.

We should like to point out that even though nine years have elapsed since the signing of the Convention, it has, regrettably, not yet entered into force. In our view, if we were now to give up and cease our efforts to universalize the Convention, the international community might in a few years' time encounter problems even more serious than those that existed at the beginning of the 1970s, when the decision was taken to convene the Third United Nations Conference on the Law of the Sea.

In that connection, our delegation favours intensification of the efforts of all groups of States to universalize the Convention and to overcome the obstacles to the attainment of that end. We are in favour of widening serious international dialogue aimed at achieving universally acceptable solutions to problems involved in the exploitation of the mineral resources of the international Area of the sea-bed. We regard as inadmissible any arbitrary actions taken by States with regard to the open seas; such actions lead to erosion of the Convention and to a weakening of the international legal order governing the world's oceans. We are convinced that only if the Convention enters into force on a universal basis will it become an effective instrument to ensure legal order in respect of the world's oceans.

The need for universalization of the Convention is now recognized by an absolute majority of States, a fact that is reflected in the draft resolution. It was precisely to overcome existing problems that the system of

(Mr. Ordzhonikidze, USSR)

unofficial consultations under the auspices of the Secretary-General of the United Nations was set up. We wish to commend most highly the Secretary-General's efforts to eliminate the existing divergences of views concerning the use of resources in the international Area of the sea-bed. However, we do not view those consultations as a substitute for the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, which, during the nine years of its activity, has done a great deal of useful work. We believe that use must be made of all ways and means, including the great prestige of the Secretary-General, for universalizing the Convention.

(Mr. Ordzhonikidze, USSR)

We wish to point out that there have been definite achievements resulting from the consultations. General understanding has been reached on a large number of issues. A constructive atmosphere, characterized by a search for solutions, realism and a readiness on the part of various groups of States to take each other's interests into account, has been established. All of this creates a basis for conducting more substantive negotiations aimed at specific solutions to existing problems.

We believe that the result of six rounds of consultations under the auspices of the Secretary-General should be followed by the preparation of an evaluation report by the Secretary-General and proposals by the Secretariat as to how to proceed in the future. We also feel that future consultations should be held under the leadership of the new Secretary-General of the United Nations.

Our delegation favours accelerating the negotiation process. Fifty-one States have already ratified the Convention. If by the end of 1992 the parties to the negotiations are able to reach mutually acceptable solutions, then an optimistic scenario would allow us to count on the entry into force of the Convention on a universal basis by the end of 1993 or 1994.

In conclusion, we should like to emphasize the importance of enhancing the role of the United Nations Office for Ocean Affairs and the Law of the Sea in the monitoring of compliance with and uniform application of the provisions of the Convention by all countries. We wish to express our esteem for and gratitude to the Special Representative of the Secretary-General for Ocean Affairs and the Law of the Sea, Mr. Nandan, and his staff for all the work they have done on the question.

The PRESIDENT: We have heard the last speaker in the debate on agenda item 36. I should like to announce that additional sponsors of draft resolution A/46/L.44 are Cyprus, Ireland and the Federated States of Micronesia.

The Assembly will now take a decision on the draft resolution. A recorded vote has been requested.

A recorded vote was taken.

In favour: Albania, Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senega[illegible] Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe

Against: Turkey

Abstaining: Ecuador, Germany, Israel, Peru, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela

Draft resolution A/46/L.44 was adopted by 140 to 1, with 7 abstentions (resolution 46/78).*

The PRESIDENT: May I remind delegations that, in accordance with decision 34/401, explanations of vote are limited to 10 minutes and should be made by delegations from their seats. I shall now call on those representatives who wish to explain their votes or positions.

Mr. AKAY (Turkey): Turkey voted against the draft resolution on the law of the sea contained in document A/46/L.44, which has just been adopted by the General Assembly. The reason for my delegation's negative vote is that some of the elements contained in the Convention on the Law of the Sea that prevented Turkey from approving it were still retained in the draft resolution.

Turkey supports the international efforts to establish a regime of the sea that is based on the principle of equity and is acceptable to all States. However, the Convention does not make adequate provision for special geographical situations and consequently is not capable of establishing a satisfactory balance between conflicting interests. Furthermore, the Convention makes no provision for registering reservations on specific clauses.

Although we agree with the Convention in its general intent and most of its provisions, we were unable to sign it owing to the serious shortcomings I have mentioned. That being the case, we cannot accept the provision in this resolution that requires States to conform with the Convention on the Law of the Sea in drafting their national legislation.

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* Subsequently the delegations of Gambia and India advised the Secretariat that they had intended to vote in favour.

Mr. VERGAU (Germany): At the outset I wish to express my gratitude for the concerted efforts made by a great number of delegations to accommodate the text of the resolution entitled "Law of the sea" to the present overall situation, which is marked, in the Secretary-General's words, by

> "an evolution in international relations from tension and confrontation towards cooperation in resolving outstanding problems of regional and global concern".

The "issues of concern" now clearly mentioned in the resolution have so far prevented the Convention on the Law of the Sea from fully playing its peace-promoting role, on which the German Government places particular emphasis.

My Government has noted with satisfaction that the six rounds of consultations under the chairmanship of the Secretary-General on problems connected with Part XI of the Convention have led to concrete work on questions whose resolution is of decisive importance to the universal acceptability of the Convention. It is only on the basis of the greatest possible degree of universal acceptance that the Convention will finally be capable of assuming the role it was designed for, namely, to ensure the rule of law over most of the surface of the globe. An important part of that role will have to be played by the International Tribunal for the Law of the Sea, which is to become the first United Nations institution on German soil.

May I reaffirm that my Government remains committed to continuing to cooperate in the most constructive manner in the timely and effective dialogue process initiated by the Secretary-General, which should by all means continue next year. After the encouraging first phase of the dialogue, which augurs well for our future efforts and which we understand to be complementary to the

(Mr. Vergau, Germany)

important work of the Preparatory Commission, the German Government is convinced that substantive discussions can produce results that will make possible the universal acceptance of and universal accession to the Convention. We therefore consider the active and constructive participation of all States taking part in the dialogue process to be of the utmost importance.

All together, we have already broken ground; our common responsibility does not allow us to stop half way.

Mr. WOOD (United Kingdom): The representative of the Netherlands already explained the general position of my delegation when he spoke on behalf of the European Community and its member States in the debate on this item.

I should first like to welcome the report of the Secretary-General on developments relating to the United Nations Convention on the Law of the Sea and related activities. The report is a most useful and valuable annual compendium, which Under-Secretary-General Nandan and his staff have assembled with their usual clarity and precision. We congratulate them.

We should also like to welcome the publication last May by the Office for Ocean Affairs and the Law of the Sea of the Guide to the Implementation of the Relevant Provisions of the United Nations Convention on the Law of the Sea on Marine Scientific Research. The authorities in the United Kingdom have already found this to be a most useful guide, and we hope that it will have the desired effect of harmonizing international practice in this very important area.

As awareness develops of the need to protect the global environment, and scientists work to discover more on the possible mechanics of climate change, there is increasing understanding of the need to promote and facilitate ocean research. The balance of rights and obligations between coastal and researching States is well set out in the Guide. We would also commend the use of the standard forms for seeking and giving consent to a cruise in waters under coastal State jurisdiction. These forms are set out in annexes to the Guide. The authorities in the United Kingdom have now decided to use these forms, and we should like to urge others to do likewise.

(Mr. Wood, United Kingdom)

I turn now to the important developments during the past year relating to the Convention on the Law of the Sea. I would stress that the United Kingdom Government sees this as a valuable Convention which could become one of the most significant achievements of the United Nations. Unfortunately, as is now clear, part XI of the Convention is fatally flawed. A market-based approach to deep-seabed mining is required. Operative paragraph 5 of the resolution we have just adopted recognizes this changed international perception.

The United Kingdom delegation has been pleased to participate in the Secretary-General's informal consultations aimed at facilitating universal participation in the Convention by seeking solutions to the problems in part XI. We have been encouraged by the atmosphere of good will and cooperation. Still more striking has been the growing consensus on how to deal with the major issues, a convergence of views that includes members of all regional groups.

The United Kingdom will continue to be active in discussions on this subject in appropriate forums. Given the good progress that has been made and the importance which we attach to the Convention, it is unfortunate that we have not been able to support this resolution. We have abstained because of concern arising from operative paragraph 6, which calls upon all States that have not done so to consider ratifying or acceding to the Convention at the earliest possible date. Entry into force of the Convention would make discussions on possible remedies more complex. While we are still discussing in good faith the changes that are needed to part XI, my delegation cannot support the call for ratification.

(Mr. Wood, United Kingdom)

We look forward to making further progress towards resolving outstanding problems in 1992. We should like to urge the Secretary-General designate to continue the consultations and to bring them to fruition. He can count on the cooperation of the United Kingdom delegation in that important endeavour.

Mr. NIETO (Argentina) (interpretation from Spanish): My country interprets the third preambular paragraph and operative paragraph 7 of draft resolution A/46/L.44, just adopted, in conformity with the statement we made on 5 October 1984 when we signed the United Nations Convention on the Law of the Sea, and in particular with the last paragraph of that statement which reiterates that,

"the Convention itself clearly establishes in article 318 that its annexes form an integral part of it."

Mr. BELHAJ (Tunisia) (interpretation from French): My delegation wishes to explain its vote on draft resolution A/46/L.44, which the General Assembly has just adopted, under the agenda item 36.

The delegation of Tunisia welcomes the constructive spirit that prevailed during the negotiations on this draft resolution and the efforts made by all concerned to reach generally agreement.

The Tunisian delegation views this resolution giving new impetus to the process of the universalization of the Convention and of respect by all for its fundamental principles and concepts. Any consultations designed to achieve adherence to the Convention by the largest possible number of States should take into account these fundamental concepts, and in particular that of the common heritage of mankind, on which part XI of the Convention is based.

(Mr. Belhaj, Tunisia)

Moreover, it remains important for Member States to heed the call of the General Assembly to take appropriate steps to ratify the Convention, thereby allowing the Convention to enter into force - almost 10 years after its adoption.

We believe that it will be through the Convention's entry into force that the problems of certain States will finally be solved. Any agreements on ways and means to make the United Nations Convention on the Law of the Sea universal must be concluded on the basis of respect for the acquired rights of States parties to the Convention and must therefore be based on the provisions of the Convention.

The PRESIDENT: That concludes our consideration of agenda item 36.

The meeting rose at 5 p.m.